

Panaji, 2nd January, 1975 (Pausa 12, 1896)

SERIES I No. 40

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Labour and Information Department

Notification

1/459/74-LAB/1490

In exercise of the powers conferred by sub-section (3) of Section 1 of the Goa, Daman and Diu Shops and Establishments Act, 1973 (13 of 1974), the Administrator of Goa, Daman and Diu hereby appoints the 26th Day of January, 1975 as the date on which the provisions of the said Act shall come into force in the District of Goa.

By order and in the name of the Administrator of Goa, Daman and Diu.

P. Noronha, Under Secretary, Industries and Labour.

Panaji, 11th December, 1974.

Notification

1/459/74-LAB/1491

In exercise of the powers conferred under sub-section (3) of Section 1 of the Goa, Daman and Diu Shops and Establishments Act, 1973 (13 of 1974), the Administrator of Goa, Daman and Diu hereby appoints the 1st day of May, 1975 as the date on which the provisions of the said Act shall come into force in the districts of Daman and Diu.

By order and in the name of the Administrator of Goa, Daman and Diu.

P. Noronha, Under Secretary, Industries and Labour.

Panaji, 11th December, 1974.

Notification

1/33/73/LAB/1525

Whereas the Lieutenant Governor of Goa, Daman and Diu is satisfied that the occupation of the workers engaged in the investigation work for the preparation of projects mostly in mountaineous regions

comprising of surveys and collection of inflow and discharge data, of the Rivers and Valleys is hazardous occupation.

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 2 of the Workmen's Compensation Act, 1923 (VIII of 1923), the Lieutenant Governor of Goa, Daman and Diu, having given previous notice of three months of its intention so to do, hereby adds the following item after item No. XXXII of the Schedule II appended to the said Act, namely:—

“(XXXIII) employed otherwise than in a clerical capacity in the conduct of surveys in river valleys including collection of data relating to the river”.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary, Industries and Labour.

Panaji, 28th December, 1974.

Law and Judiciary Department

Notification

LD/4637/74

The following Central Acts which were recently passed by the Parliament and assented to by the President of India are hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 1st October, 1974.

The Direct Taxes (Amendment) Act, 1974

AN

ACT

further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964 and to provide for certain related matters.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. **Short title.**— This Act may be called the Direct Taxes (Amendment) Act, 1974.

CHAPTER II

Amendments to the Income-tax Act, 1961

2. **Amendment of section 10.**— In section 10 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act),—

43 of 1961

(a) in sub-clause (viii) of clause (6), before the Explanation the following proviso shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1973, namely:—

“Provided that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition specified in item (1) of this sub-clause in the case of any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning.”;

(b) in clause (15), after item (c) of sub-clause (iv), the following items shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1973, namely:—

“(d) by the Industrial Finance Corporation of India established by the Industrial Finance Corporation Act, 1948 or the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 or the Industrial Credit and Investment Corporation of India (a company formed and registered under the Indian Companies Act, 1913), on any moneys borrowed by it from sources outside India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;

15 of 1948

18 of 1964

8 of 1913

(e) by any other financial institution established in India or a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of Act), on any moneys borrowed by it from sources outside India under a loan agreement approved by the Central Government where the moneys are borrowed either for the purpose of advancing loans to industrial undertakings in India for purchase outside India of raw materials or capital plant and machinery or for the purpose of importing any goods which the Central Government may consider necessary

10 of 1949

to import in the public interest, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.”;

(c) after clause (17), the following clauses shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1973, namely:—

“(17A) any payment made, whether in cash or in kind, in pursuance of awards for literary, scientific and artistic work or attainment, or for proficiency in sports and games, instituted by the Central Government or by any State Government or approved by the Central Government in this behalf:

Provided that the approval granted by the Central Government shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such approval is granted) as may be specified in the order granting the approval;

(17B) any payment made, whether in cash or in kind, as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest.”.

3. **Amendment of section 32.**— In section 32 of the Income-tax Act, with effect from the 1st day of April, 1975, —

(a) in sub-section (1), after clause (v), the following clause shall be inserted, namely:—

“(vi) in the case of a new ship or a new aircraft acquired after the 31st day of May, 1974 by an assessee engaged in the business of operation of ships or aircraft or in the case of new machinery or plant (other than office appliances or road transport vehicles) installed after that date for the purposes of business of generation or distribution of electricity or any other form of power or of construction, manufacture or production of any one or more of the articles or things specified in the list in the Ninth Schedule or in the case of new machinery or plant (other than office appliances or road transport vehicles) installed after that date in a small-scale industrial undertaking for the purposes of business of manufacture or production of any other articles or things, a sum equal to twenty per cent. of the actual cost of the ship, aircraft, machinery or plant to the assessee, in respect of the previous year in which the ship or aircraft is acquired or the machinery or plant is installed, or if the ship, aircraft, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year; but any such sum shall not be deductible in determining the written down value for the purposes of clause (ii):

Provided that the assessee may, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for the assessment year in respect of which he first becomes entitled to deduction under this clause, furnish to the

Income-tax Officer a declaration in writing that the provisions of this clause shall not apply to him, and if he does so, the provisions of this clause shall not apply to him for that assessment year and for every subsequent assessment year; so, however, that the assessee may, by notice in writing furnished to the Income-tax Officer before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for any such subsequent assessment year, revoke his declaration and upon such revocation, the provisions of this clause shall apply to the assessee for that subsequent assessment year and for every assessment year thereafter:

Provided further that no deduction shall be allowed under this clause in respect of —

(a) any machinery or plant installed in any office premises or any residential accommodation, including any accommodation in the nature of a guest-house, and

(b) any ship, aircraft, machinery or plant in respect of which the deduction by way of development rebate is allowable under section 33.

Explanation. — For the purposes of this clause, —

(1) "new ship" or "new aircraft" includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India;

(2) "new machinery or plant" includes machinery or plant which before its installation by the assessee was used outside India by any other person, if the following conditions are fulfilled, namely: —

(a) such machinery or plant was not, at any time previous to the date of such installation by the assessee, used in India;

(b) such machinery or plant is imported into India from any country outside India; and

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

11 of 1922

(3) an industrial undertaking shall be deemed to be a small-scale industrial undertaking, if the aggregate value of the machinery and plant installed, as on the last day of the previous year, for the purposes of the business of the undertaking does not exceed seven hundred and fifty thousand rupees; and for this purpose the value of any machinery or plant shall be, —

(a) in the case of any machinery or plant owned by the assessee, the actual cost thereof to the assessee; and

(b) in the case of any machinery or plant hired by the assessee, the actual cost thereof as in the case of the owner of such machinery or plant;

(b) in sub-section (2), after the words, brackets and figure "or clause (v)", the words, brackets and figures "or clause (vi)" shall be inserted.

4. Amendment of section 34. — In section 34 of the Income-tax Act, in clause (ii) of sub-section (2), after the words, brackets and figures "or clause (iv)", the words, brackets and figures "or clause (v) or clause (vi)", shall be inserted with effect from the 1st day of April, 1975.

5. Amendment of section 35. — In section 35 of the Income-tax Act, —

(a) in clause (i) of sub-section (1), the following *Explanation* shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1974, at the end, namely: —

"Explanation. — Where any such expenditure has been laid out or expended before the commencement of the business (not being expenditure laid out or expended before the 1st day of April, 1973) on payment of any salary [as defined in *Explanation* 2 below sub-section (5) of section 40A] to an employee engaged in such scientific research or on the purchase of materials used in such scientific research, the aggregate of the expenditure so laid out or expended within the three years immediately preceding the commencement of the business shall, to the extent it is certified by the prescribed authority to have been laid out or expended on such scientific research, be deemed to have been laid out or expended in the previous year in which the business is commenced;"

(b) in clause (iv) of sub-section (2), for the word, brackets and figures "and (iii)", the brackets, figures and word, "(iii) and (vi)" shall be substituted with effect from the 1st day of April, 1975;

(c) after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of April, 1974, namely —

"(2A) Where the assessee pays any sum to a scientific research association or university or college or other institution referred to in clause (ii) of sub-section (1) to be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, then, —

(a) there shall be allowed a deduction of a sum equal to one and one-third times the sum so paid; and

(b) no deduction in respect of such sum shall be allowed under clause (ii) of sub-section (1) for the same or any other assessment year."

6. Amendment of section 35B. — In section 35B of the Income-tax Act, in clause (a) of sub-section (1), the following proviso shall be inserted, and shall

be deemed to have been inserted, with effect from the 1st day of April, 1973, at the end, namely:—

'Provided that in respect of the expenditure incurred after the 28th day of February, 1973 by a domestic company, being a company in which the public are substantially interested, the provisions of this clause shall have effect as if for the words "one and one-third times", the words "one and one-half times" had been substituted.'

7. Amendment of section 40A.—In section 40A of the Income-tax Act, in sub-section (5), in sub-clause (i) of clause (c), the following proviso shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April 1974, at the end, namely:—

"Provided that where the expenditure is incurred on payment of any salary to an employee or a former employee engaged in scientific research during any one or more of the three years immediately preceding the commencement of the business and such expenditure is deemed under the *Explanation* to clause (i) of sub-section (1) of section 35 to have been laid out or expended in the previous year in which the business is commenced, the limit referred to in this sub-clause shall, in relation to the previous year in which the business is commenced, be an amount calculated at the rate of five thousand rupees for each month or part thereof comprised in the period of his employment in India during the previous year in which such business is commenced and in the period of his employment in India during which he was engaged in scientific research during the three years immediately preceding that previous year;".

8. Amendment of section 80A.—In section 80A of the Income-tax Act, in sub-section (3), for the word, figures and letter "section 80H", the words, figures and letters "section 80H or section 80HH" shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974.

9. Insertion of new section 80HH.—In the Income-tax Act, after section 80H, the following section shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1974, namely:—

'80HH. Deduction in respect of profits and gains from newly established industrial undertakings or hotel business in backward areas.—(1) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking, or the business of a hotel, to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent thereof.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely:—

(i) it has begun or begins to manufacture or produce articles after the 31st day of December, 1970 in any backward area;

(ii) it is not formed by the splitting up, or the

reconstruction, of a business already in existence in any backward area:

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose in any backward area;

(iv) it employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

Explanation.—Where any machinery or plant or any part thereof previously used for any purpose in any backward area is transferred to a new business in that area or in any other backward area and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (iii) of this sub-section, the condition specified therein shall be deemed to have been fulfilled.

(3) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely:

(i) the business of the hotel has started or starts functioning after the 31st day of December, 1970 in any backward area;

(ii) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence;

(iii) the hotel is for the time being approved for the purposes of this sub-section by the Central Government.

(4) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of each of the ten assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or the business of the hotel starts functioning.

Provided that,—

(i) in the case of an industrial undertaking which has begun to manufacture or produce articles, and

(ii) in the case of the business of a hotel which has started functioning,

after the 31st day of December, 1970 but before the 1st day of April, 1973, this sub-section shall have effect as if the reference to ten assessment years were a reference to ten assessment years as reduced by the number of assessment years which expired before the 1st day of April, 1974.

(5) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) shall not be admissible unless the accounts of the industrial undertaking or the business of the hotel for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee

furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

(6) Where any goods held for the purposes of the business of the industrial undertaking or the hotel are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of the industrial undertaking or the business of the hotel shall be computed as if the transfer, either case, had been made at the market value of such goods as on that date:

Provided that where, in the opinion of the Income-tax Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel in the manner hereinbefore specified presents exceptional difficulties, the Income-tax Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation.—In this sub-section, “market value” in relation to any goods means the price that such goods would ordinarily fetch on sale in the open market.

(7) Where it appears to the Income-tax Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel, the Income-tax Officer shall, in computing the profits and gains of the industrial undertaking or the hotel for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(8) In a case where the assessee is entitled also to the deduction under section 80H in relation to the profits and gains of an industrial undertaking to which this section applies, the deduction under sub-section (1) shall be allowed with reference to the amount of such profits and gains as reduced by the deduction under section 80H in relation to such profits and gains.

(9) In a case where the assessee is entitled also to the deduction under section 80J in relation to the profits and gains of an industrial undertaking or the business of a hotel to which this section applies, effect shall first be given to the provisions of this section.

(10) Nothing contained in this section shall apply in relation to any undertaking engaged in mining.

Explanation.—In this section, “backward area” means an area specified in the list in the Eighth Schedule.

10. Amendment of Section 80J.—In section 80J of the Income-tax Act,—

(a) in sub-section (1), for the brackets, words, figures and letter “(reduced by the deduction, if any, admissible to the assessee under section 80H)”, the brackets, words, figures and letters “(reduced by the aggregate of the deductions, if any admissible to the assessee under section 80H and section 80HH)” shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974;

(b) in sub-section (3), for the word, figures and letter “section 80H”, the words, figures and letters “section 80H, section 80HH” shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974.

11. Amendment of section 80P.—In section 80P of the Income-tax Act, in sub-section (3),—

(a) for the words, figures and letters “section 80H or section 80J”, the words, figures and letters “section 80H or section 80HH or section 80J” shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974;

(b) for the words, figures and letters “section 80H and section 80J”, the words, figures and letters “section 80H, section 80HH and section 80J” shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974.

12. Amendment of section 80QQ.—In section 80QQ of the Income-tax Act, in sub-section (2),—

(a) for the words, figures and letters “section 80H or section 80J”, the words, figures and letters “section 80H or section 80HH or section 80J” shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974;

(b) for the words, figures and letters “sections 80H, 80J and 80P”, the words, figures and letters “section 80H, section 80HH, section 80J and section 80P” shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974.

13. Amendment of section 271.—In section 271 of the Income-tax Act, for clause (i) of sub-section (1), the following clause shall be substituted and shall be deemed always to have been substituted, namely:—

“(i) in the cases referred to in clause (a), in addition to the amount of the tax, if any, payable by him, a sum equal to two per cent. of the assessed tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent. of the assessed tax.

Explanation.—In this clause, “assessed tax” means as reduced by the sum, if any, deducted at source under Chapter XVII-B or paid in advance under Chapter XVII-C;”.

14. Amendment of section 295.—In section 295 of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The power to make rules conferred by this section shall include the power to give retrospec-

tive effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assesseses."

15. Insertion of Eighth Schedule.—In the Income-tax Act, after the Seventh Schedule, the following Schedule shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of April, 1974, namely:—

"THE EIGHTH SCHEDULE

(See section 80HH)

List of backward areas

Name of State or Union territory (1)	Backward areas (2)
Andhra Pradesh	The districts of Anantapur, Chittoor, Cuddapah, Karimnagar, Khammam, Kurnool, Mahbub-nagar, Medak, Nalgonda, Nellore, Nizamabad, Ongole, Srikakulam and Warangal.
Assam	The districts of Cachar, Goalpara, Kamrup, Lakhimpur, Mikir Hills, North Cachar Hills and Nowgong.
Bihar	The districts of Bhagalpur, Darbhanga, East Champaran, Madhubani, Muzaffarpur, Palamau, Purnea, Saharsa, Samastipur, Santal Parganas, Saran, Sitamarhi, Siwan, Vaishali and West Champaran.
Gujarat	The districts of Amreli, Banas Kantha, Bharuch, Bhavnagar, Junagadh, Kutch, Mahesana, Panch Mahals, Sabar Kantha and Surendranagar.
Haryana	The districts of Bhiwani, Hissar, Jind and Mahendragarh.
Himachal Pradesh	The districts of Chamba, Hamirpur, Kangra, Kinnaur, Kulu, Lahul and Spiti, Sirmur, Solan and Una.
Jammu and Kashmir	The districts of Anantnag, Baramulla, Doda, Jammu, Kathua, Ladakh, Punch, Rajauri, Srinagar and Udhampur.
Karnataka	The districts of Belgaum, Bidar, Bijapur, Dharwar, Gulbarga, Hassan, Mysore, North Kanara, Raichur, South Kanara and Tumkur.
Kerala	The districts of Alleppey, Cannanore, Malappuram, Trichur and Trivandrum.
Madhya Pradesh	The districts of Balaghat, Bastar, Betul, Bilaspur, Bhind, Chhatarpur, Chhindwara, Damoh, Datia, Dewas, Dhar, Guna, Hoshangabad, Jabua, Khargone, Mandla, Mandsaur, Morena, Narsimhapur, Panna, Raigarh, Raipur, Raisen, Rajgarh, Rajnandgaon, Ratlam, Rewa, Sagar, Sehore, Seoni, Shajapur, Shivpuri, Sidhi, Surguja, Tikamgarh and Vidisha.
Maharashtra	The districts of Aurangabad, Bhandara, Bhir, Buldhana, Chandrapur, Dhulia and Jalgaon; the district of Kolaba excluding such portion thereof as is comprised in the area designated as the site for the proposed new town of New Bombay by notification No. RPB 1171-18124-I.W., dated the 20th March, 1971, issued under sub-section (1) of section 113 of the Maharashtra Regional and Town Planning Act, 1966 (Maharashtra Act 37 of 1966) by the Government of Maharashtra (Under Development, Public Health and Housing Department) as amended by notification No. RPB 1173-I-RPC, dated the 16th August, 1973, issued by that Government: the districts of Nanded, Osmanabad, Parbhani, Ratnagiri and Yeotmal.

(1)	(2)
Manipur	The whole of the State.
Meghalaya	The Districts of Garo Hills, Jaintia Hills and Khasi Hills.
Nagaland	The whole of the State.
Orissa	The districts of Balasore, Bolangir, Dhenkanal, Kalahandi, Keonjhar, Koraput, Mayurbhanj and Phulbani.
Punjab	The district of Bhatinda; so much of the district of Faridkot as formed part of the district of Bhatinda on the 31st day of July, 1972; the districts of Gurdaspur, Hoshiarpur and Sangrur.
Rajasthan	The districts of Alwar, Banswara, Barmer, Bhilwara, Churu, Dungarpur, Jaisalmer, Jalor, Jhalawar, Jhunjhunun, Jodhpur, Nagaur, Sikar, Sirohi, Tonk and Udaipur.
Tamil Nadu	The districts of Dharmapuri, Kanyakumari, Madurai, North Arcot, Ramanathapuram, South Arcot, Thanjavur and Tiruchirappalli.
Tripura	The whole of the State.
Uttar Pradesh	The districts of Almora, Azamgarh, Baharaich, Ballia, Banda, Bara Banki, Basti, Budaun, Bulandshahr, Chamoli, Deoria, Etah, Etawah, Faizabad, Farrukhabad, Fatehpur, Garhwal, Ghazipur, Gonda, Hamirpur, Hardoi, Jalaun, Jaunpur, Jhansi, Mainpuri, Mathura, Moradabad, Pilibhit, Pithoragarh, Pratapgarh, Rae Bareilly, Shahjahanpur, Sitapur, Sultanpur, Tehri-Garhwal, Unnao and Uttarkashi.
West Bengal	The districts of Bankura, Birbhum, Burdwan, Cooch Behar, Darjeeling, Hooghly, Jalpaiguri, Malda, Midnapore, Murshidabad, Nadia, Purulia and West Dinajpur.
Andaman and Nicobar Islands	The whole of the Union territory.
Arunachal Pradesh	The whole of the Union territory.
Dadra and Nagar Haveli	The whole of the Union territory.
Goa, Daman and Diu	The whole of the Union territory.
Lakshadweep	The whole of the Union territory.
Mizoram	The whole of the Union territory.
Pondicherry	The whole of the Union territory.

Explanation.—Save as otherwise expressly provided, reference to any district in this Schedule shall be construed as a reference to the areas comprised in that district on the 3rd day of September, 1973 being the date of introduction of the Direct Taxes (Amendment) Bill, 1973 in the House of the People."

16. Insertion of Ninth Schedule.—In the Income-tax Act, the following Schedule shall be inserted at the end with effect from the 1st day of April, 1975, namely:—

"THE NINTH SCHEDULE

[See section 32(1)(vi)]

List of articles or things

1. Iron and steel (metal).
2. Non-ferrous metals.
3. Ferro-alloys and special steels.
4. Steel castings and forgings and malleable iron and steel castings.
5. Thermal and hydro power generation equipment.
6. Transformers and switch gears.

7. Electric motors.
8. Industrial and agricultural machinery.
9. Earth moving machinery.
10. Machine tools.
11. Fertilisers, namely, ammonium sulphate, ammonium sulphate nitrate (double salt), ammonium nitrate, calcium ammonium nitrate (nitrolime stone), ammonium chloride, super phosphate, urea and complex fertilisers of synthetic origin containing both nitrogen and phosphorus, such as ammonium phosphates, ammonium sulphate phosphate and ammonium nitro phosphate.
12. Soda ash.
13. Caustic soda.
14. Commercial vehicles.
15. Ships.
16. Aircraft.
17. Tyres and tubes.
18. Paper, pulp and newsprint.
19. Sugar.
20. Vegetable oils.
21. Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of cotton, including cotton yarn, hosiery and rope.
22. Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of jute, including jute twine and jute rope.
23. Cement and refractories."

CHAPTER III

Amendment to the Wealth-tax Act, 1957

17. Amendment of section 46.—In section 46 of the Wealth-tax Act, 1957 27 of 1957 (hereinafter referred to as the Wealth-tax Act), for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assesseees."

CHAPTER IV

Amendments to the Gift-tax Act, 1958

18. Amendment of section 17.—In section 17 of the Gift-tax Act, 1958 18 of 1958 (hereinafter referred to as the Gift-tax Act), for clause (i) of sub-section (1), the following clause shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1963, namely:—

"(i) in the cases referred to in clause (a), in addition to the amount of the gift-tax, if any, payable by him, a sum equal to two per cent. of the assessed tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent of the assessed tax.

Explanation.—In this clause, "assessed tax" means the gift-tax chargeable under the provisions of this Act as reduced by the amount, if any, for which credit is allowed under section 18;".

19. Amendment of section 46.—In section 46 of the Gift-tax Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assesseees."

CHAPTER V

Amendments to the Companies (Profits) Surtax Act, 1964

20. Amendment of section 9.—In section 9 of the Companies (Profits) Surtax Act, 1964 7 of 1964 [hereinafter referred to as the Companies (Profits) Surtax Act], in clause (a), for the words "surtax payable", the words "surtax chargeable under the provisions of this Act" shall be substituted and shall be deemed always to have been substituted.

21. Amendment of section 25.—In section 25 of the Companies (Profits) Surtax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assesseees."

CHAPTER VI

Miscellaneous

22. Section 13 not to apply in certain cases.—Where, in the case of an assessee the Supreme Court has, before the date of introduction of the Direct Taxes (Amendment) Bill, 1973 in the House of the People, held, on an appeal in respect of an order imposing a penalty under clause (i) of sub-section (1) of section 271 of the Income-tax Act for any particular assessment year, that the expression "the amount of the tax, if any, payable by him" in the said clause shall be construed as the amount of the tax payable by him under the notice of demand under section 156 of that Act issued in pursuance of an order of assessment, nothing contained in section 13 of this Act shall apply or be deemed to have ever applied in relation to the order of penalty in the case of such assessee for that particular year.

23. Special provision as to effect of section 18(1) (i) of Wealth-tax Act, as it stood during certain period.—Clause (i) of sub-section (1) of section 18 of the Wealth-tax Act, as it stood during the period commencing on the 1st day of April, 1965 and ending with the 31st day of March, 1969, shall have and be deemed always to have effect as if the words "the tax" occurring therein, at both the places, mean the wealth-tax chargeable under the provisions of that Act.

24. Special provision as to effect of section 17(1) (i) of Gift-tax Act, as it stood during certain period. — Clause (i) of sub-section (1) of section 17 of the Gift-tax Act, as it stood before the 1st day of April, 1963, shall have and be deemed always to have effect as if the words "such tax" occurring therein mean the gift-tax chargeable under the provisions of that Act as reduced by the amount, if any, for which credit is allowed under section 18 of that Act.

The Cinematograph (Amendment) Act, 1974

AN ACT

further to amend the Cinematograph Act, 1952.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows: —

1. **Short title and commencement.** — This Act may be called the Cinematograph (Amendment) Act, 1974.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Amendment of Section 2.** — In the Cinematograph Act, 1952 (hereinafter referred to as the principal Act), in section 2, —

(a) after clause (a), the following clause shall be inserted, namely: —

“(aa) “Appellate Tribunal” means an Appellate Tribunal constituted under sub-section (2) of section 5D;”;

(b) after clause (d), the following clauses shall be inserted, namely: —

“(da) “Examining Committee”, in relation to a film, means the Examining Committee constituted by special order under section 3B for that film or, as the case may be, the Examining Committee constituted under that section by general order for films of the class to which such film belongs;

“(db) “export” means taking out of India to a place outside India;”;

(c) clause (dd) shall be re-lettered as clause (dc);

(d) after clause (f), the following clause shall be inserted, namely: —

“(g) “Revising Committee”, in relation to a film, means the Revising Committee constituted by special order under section 3B for that film or, as the case may be, the Revising Committee constituted under that section by general order for films of the class to which such film belongs.”

3. **Amendment of section 3.** — In section 3 of the principal Act, —

(a) in sub-section (1), —

(i) for the words “not more than nine other members”, the words “five other whole-time members and six honorary members” shall be substituted;

(ii) the following proviso shall be inserted at the end, namely: —

“Provided that three of the honorary members shall be persons engaged or employed in the film industry.”;

(b) in sub-section (2), for the words “shall receive such salary and allowances as may be determined by the Central Government, and the other members”, the words “and the other while-time members shall receive such salaries and allowances as may be determined by the Central Government and the honorary members” shall be substituted.

4. **Insertion of new sections 3A and 3B.** — After section 3 of the principal Act, the following sections shall be inserted, namely: —

3A. Assessors and Regional Officers. — (1) For the purpose of enabling the Board to efficiently discharge its functions, and for the examination of films in different languages, under this Act, the Central Government may appoint as many assessors as it thinks fit for such regional centres as may be determined by that Government:

Provided that not more than seven assessors shall be appointed in relation to films in any particular language.

(2) The assessors shall discharge such functions as are assigned to them by or under this Act and it shall be the duty of every assessor to render such assistance to the Board on any matter in respect of the examination of any film as may be required by the Board.

(3) The assessors shall not be entitled to any salary, but shall receive such fees or allowances as may be prescribed.

(4) At each regional centre, there shall be as many regional officers as the Central Government may think fit to appoint and rules made in this behalf may provide for the association of regional officers in the examination of films.

3B. Examining Committees and Revising Committees. — (1) The Board may, by special or general order, constitute —

(a) an Examining Committee for the examination under this Act of any film or class of films; and

(b) a Revising Committee, for reconsidering, where it is necessary so to do under this Act, the recommendations of any examining Committee, for or in relation to any film or any class of films.

(2) Every Examining Committee shall consist of one whole-time member of the Board and two assessors, and the whole-time member shall be the Chairman of the Committee.

(3) Every Revising Committee shall consist of —

(a) the Chairman, one whole-time member, and one honorary member, of the Board; or

(b) two whole-time members, and one honorary member, of the Board,

and the Chairman of the Board or, if he is not a member of the Committee, one of the whole-time members nominated by him, shall be the Chairman of the Committee”.

5. Amendment of section 4. — In section 4 of the principal Act, —

(a) in sub-section (1), for the words "after examining or having the film examined in the prescribed manner", the words "after the examination of the film as provided in this Act and the rules made thereunder" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely: —

"(1A) Any person, desiring to export any film for exhibition outside India, shall, in the prescribed manner, make an application to the Board for a certificate in respect thereof and the Board may, after the examination of the film as provided in this Act and the rules made thereunder, —

(i) sanction the film as a film fit for exhibition outside India; or

(ii) direct the applicant to carry out such excisions or modifications in the film as it thinks necessary, before sanctioning the film as a film fit for exhibition outside India, or

(iii) refuse to sanction the film as a film fit for exhibition outside India.";

(c) in sub-section (2), after the word, brackets and figure "sub-section (1)", the words, brackets, figures and letter "or under clause (ii) or clause (iii) of sub-section (1A)" shall be inserted.

6. Insertion of new section 4A. — After section 4 of the principal Act, the following section shall be inserted, namely: —

"4A. **Examination of films by Examining Committees.** — (1) Every film in respect of which an application is made under section 4 shall be examined in the prescribed manner by the Examining Committee.

(2) The Examining Committee shall examine the film having regard to the principles for guidance in certifying films specified in or under section 5B and make such recommendations to the Board as it deems appropriate:

Provided that if there is a difference of opinion amongst the members of the Committee each member shall record separately his recommendations and the reasons therefor.

(3) The recommendations of the Examining Committee or, as the case may be, the recommendations of each of the members of the Committee, shall be communicated in the prescribed manner to the Board and the Board shall, after making such further examination of the film as it may deem necessary, pass such orders on the application as it deems fit under sections 4 and 5A:

Provided that before passing such orders the Board shall refer the film for further examination to the Revising Committee —

(a) in a case where there is a difference of opinion between the Chairman of the Examining Committee and the other members thereof in respect of all or any of the recommendations;

(b) in any other case, if the applicant represents, when he is given an opportunity for representing his views under sub-section (2) of section 4, that the film shall be so referred."

7. Substitution of new section for section 5. — For section 5 of the principal Act, the following section shall be substituted, namely: —

"5. **Further examination by Revising Committee.**

(1) Where any film is referred to a Revising Committee under sub-section (3) of section 4A, the Revising Committee shall examine the film in the prescribed manner having regard to the principles for guidance in certifying films specified in or under section 5B and make its recommendations to the Board:

Provided that if there is a difference of opinion amongst the members of the Committee each member shall record separately his recommendations and the reasons therefor.

(2) The recommendations of the Revising Committee or, as the case may be, the recommendations of each of the members of the Committee shall be communicated in the prescribed manner to the Board and the Board may pass such orders on the application as it deems fit under sections 4 and 5A."

8. Amendment of section 5A. — In section 5A of the principal Act, —

(a) in sub-section (1), for the words "If, after examining a film or having it examined in the manner provided in this Act," the words, brackets and figures "If, after the examination, as provided in this Act and the rules made thereunder, of a film in respect of which an application under sub-section (1) of section 4 has been made," shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely: —

"(1A) If, after the examination, as provided in this Act and the rules made thereunder, of a film in respect of which an application under sub-section (1A) of section 4 has been made, the Board considers that the film is a film fit for exhibition outside India, it shall grant to the person applying for a certificate in respect of the film, a certificate to that effect and shall cause the film to be so marked in the prescribed manner.";

(c) in sub-section (3), for the words "under this section shall be valid throughout India for a period of ten years," the words, brackets, figures and letter "under sub-section (1) shall be valid throughout India for a period of ten years and a certificate granted by the Board under sub-section (1A) in respect of a film shall be valid for purposes of export of the film for such period as may be prescribed." shall be substituted.

9. Amendment of section 5B. — In section 5B of the principal Act, —

(a) in sub-section (1), —

(i) for the words "certified for public exhibition", the words "certified under this Act" shall be substituted;

(ii) after the words "against the interests of", the words "the sovereignty and integrity of India," shall be inserted;

(b) after sub-section (1), the following sub-section shall be inserted, namely: —

“(1A) In particular and without prejudice to the generality of the provisions of sub-section (1), a film shall not be certified as a film fit for exhibition outside India if, in the opinion of the authority competent to grant the certificate, the film or any part of it presents or is likely to present an erroneous, distorted or misleading image of the social, cultural or political institutions of India or any part thereof.”;

(c) in sub-section (2), —

(i) for the word, brackets and figure “sub-section (1)”, the words, brackets, figures and letter “sub-section (1) and sub-section (1A)” shall be substituted;

(ii) after the words “public exhibition”, the words “or, as the case may be, exhibition outside India” shall be inserted.

10. Substitution of new sections for section 5C. — For section 5C of the principal Act, the following sections shall be substituted, namely: —

‘5C. Appellate Tribunals. — (1) The Central Government shall, by notification in the Official Gazette, nominate twelve persons to serve, as hereinafter provided, as members of Appellate Tribunals.

(2) Such nomination shall be made from persons —

(i) who are familiar with the social, cultural or political institutions of India, or

(ii) who have special knowledge of the various regions of India, or

(iii) who have special knowledge of films and their impact on society, or

(iv) who have, for at least ten years, held civil judicial posts or who have been in practice as advocates for at least ten years or who have been members of the Central Legal Service (not below Grade III) for at least three years.

Explanation. — For the purpose of this sub-section, in computing the period during which a person had been an advocate of a High Court, there shall be included any period during which the person has held judicial office after he became an advocate.

(3) Every Appellate Tribunal shall consist of three members appointed by the Central Government from among the persons nominated by it under sub-section (1).

(4) The Central Government shall, by notification in the Official Gazette, designate any officer of Government to function as the Registrar of Appellate Tribunals.

(5) The terms and conditions of service of the members of, and the procedure to be followed by, the Appellate Tribunals shall be such as may be prescribed.

5D. Appeals. — (1) Any person who applies for a certificate in respect of a film and who is aggrieved by an order of the Board —

(a) refusing to grant the certificate, or

(b) granting only an “A” certificate, or

(c) directing the applicant to carry out any excisions or modifications,

may, within thirty days from the date of such order, lodge an appeal with the Registrar of Appellate Tribunals appointed under sub-section (4) of section 5C.

(2) The Central Government shall, as soon as may be upon receipt of information of the lodging of any appeal, constitute an Appellate Tribunal as specified in sub-section (3) of section 5C.

(3) The Appellate Tribunal shall, after such inquiry into the matter as it considers necessary, and after giving the appellant an opportunity for representing his views in the matter, make such order in relation thereto as it thinks fit and the Board shall dispose of the matter in conformity with such order.

11. Amendment of section 6. — In section 6 of the principal Act, —

(a) in sub-section (1), for the words “pending before, or has been decided by, the Board,” the words and brackets “pending before the Examining Committee or the Revising Committee or the Board, or has been decided by the Board (but not including any proceeding in respect of any matter which is pending before or has been decided by an Appellate Tribunal),” shall be substituted;

(b) in sub-section (2), —

(i) for the words “by notification”, the words “by order published” shall be substituted;

(ii) in clause (a), after the words “any part of India”, the words “or, as the case may be, an uncertified film for exhibition outside India, whether generally or in any particular country or countries outside India” shall be inserted;

(iii) in clause (c), after the words “the exhibition”, the words “or, as the case may be, export for exhibition” shall be inserted;

(c) after sub-section (4), the following sub-sections shall be inserted, namely: —

“(5) The Central Government may, if satisfied in relation to any film in respect of which an order has been made by an Appellate Tribunal under section 5D that it is necessary so to do in the interests of —

(i) the sovereignty and integrity of India; or

(ii) the security of the State; or

(iii) friendly relations with foreign States; or

(iv) public order or decency or morality, make such inquiry into the matter as it considers necessary, and pass such order in relation thereto as it thinks fit, and the Board shall thereupon dispose of the matter in conformity with such order:

Provided that no such order shall be made prejudicially affecting any person to whom a certificate has been granted except after giving him an opportunity for representing his views in the matter:

Provided further that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against public interest to disclose.

(6) The provisions of sub-sections (2) to (4) of this section shall, so far as may be, apply also

in relation to every film in respect of which the Central Government may exercise powers under sub-section (5)."

12. Amendment of section 6A.—In section 6A of the principal Act, for the words "distributor or exhibitor", at both the places where they occur, the words "distributor, exhibitor or exporter" shall be substituted.

13. Amendment of section 7.—In section 7 of the principal Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

"(aa) exports or attempts to export any film which is not certified by the Board as a film fit for exhibition outside India, or".

14. Amendment of section 7A.—In section 7A of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Where any film which is not certified by the Board as a film fit for exhibition outside India is attempted to be exported, any police officer may, in pursuance of an order made in this behalf by the District Magistrate or any magistrate of the First Class empowered in this behalf by the District Magistrate, enter any place in which he has reason to believe that the film is kept, search it and seize the film."

15. Amendment of section 7C.—In section 7C of the principal Act,—

(i) after the word "Board", the words "or an Appellate Tribunal" shall be inserted;

(ii) for the word "person", the words "person or authority" shall be substituted.

16. Amendment of section 7D.—In section 7D of the principal Act, the words "or of any advisory panel" and the words "or panel, as the case may be" shall be omitted.

17. Amendment of section 7E.—In section 7E of the principal Act, for the words "and of any advisory panel", the words "and of every Appellate and all assessors" shall be substituted.

18. Amendment of section 7F.—In section 7F of the principal Act, for the words "advisory panel or any officer or member of the Central Government, Board or advisory panel, as the case may be," the words "any Examining Committee, any Revising Committee, any Appellate Tribunal or the Registrar of Appellate Tribunals or any other officer of the Central Government or any member of the Board or of any Appellate Tribunal or an assessor," shall be substituted.

19. Amendment of section 8.—In section 8 of the principal Act, in sub-section (2),—

(a) in clause (a), after the words "the number of persons who may constitute the Board", the words, "the terms and conditions of service (other than salary and allowances) of the Chairman and other whole-time members of the Board, the allowances or fees and other terms and conditions of service of the honorary members of the Board" shall be inserted;

(b) after clause (a), the following clauses shall be inserted, namely:—

"(aa) the functions of, the fees or allowances payable to, and the other terms and conditions of service of assessors;

(ab) the procedure of Examining Committees and Revising Committees for examining films and making recommendations to the Board and all matters ancillary thereto;

(ac) the terms and conditions of service of persons appointed as members of any Appellate Tribunal,";

(c) in clause (b), the words "as suitable for public exhibition" shall be omitted;

(d) in clause (e), for the words "may be preferred", the words "may be lodged and the procedure which may be followed for the disposal of appeals" shall be substituted;

(e) after clause (e), the following clause shall be inserted, namely:—

"(ea) the time within which any act or thing (including the examination of any film and the disposal of any proceedings) shall ordinarily be done under this Act, by the Board, or Examining Committees or Revising Committees or the Central Government or Appellate Tribunal or other officers or authorities under this Act,".

20. Amendment of section 9.—In section 9 of the principal Act, for the words "exhibition of any film", the words "exhibition or export of any film" shall be substituted.

21. Special provision as to pending cases.—(1) The provisions of the principal Act, as amended by this Act (the principal Act as so amended being hereafter in this section referred to as the amended Act), shall apply in relation to applications in respect of films made to the Board under sub-section (1) of section 4 of the principal Act and pending immediately before the commencement of this Act, subject to the following provisions, namely:—

(a) The Board may take action under clause (i), clause (ii), clause (iii), or, as the case may be, clause (iv) of the said sub-section (1) in respect of any such film where, before such commencement, the Board,—

(i) has examined the film; or

(ii) had the film examined by a revising committee referred to in rule 25 of the Cinematograph (Censorship) Rules, 1958; or

(iii) had the film examined by an examining committee referred to in rule 23 of the said rules and neither the applicant makes a request for the reference, for further examination, of the film to a revising committee within the time allowed under the principal Act nor the Board considers it necessary to make such a reference.

(b) The Board shall refer such film for further examination to a Revising Committee constituted under the amended Act where, before such commencement,—

(i) the film had been examined by an examining committee, referred to in the said rule 23, and either the applicant makes a request for the reference, for examination, of the film to a Revising Committee within the time allowed un-

der the principal Act or the Board considers it necessary to make such a reference;

(ii) the film has been referred to a revising committee under the said rule 25 and the revising committee has not completed the examination of the film.

(c) The Board shall refer the examination of such film to an Examining Committee constituted under the Amended Act where, before such commencement,—

(i) the film has not been examined by the Board or referred for examination to an examining committee referred to in rule 23 of the said rules; or

(ii) the film has been referred for examination to an examining committee referred to in the said rule 23, but such committee has not completed the examination of the film.

Explanation. — For the purpose of this sub-section, an examining committee or a revising committee shall be deemed to have examined a film when it has sent the record of its examination of the film to the Chairman of the Board.

(2) All appeals under the principal Act, pending with the Central Government immediately before the commencement of this Act, shall be dealt with in accordance with the provisions of section 5D of the Amended Act.

(3) The Central Government shall exercise its revisional powers in respect of any matter which is pending before it, the Board or any authority under the principal Act immediately before the commencement of this Act, or which has been decided by the

Board before such commencement, in accordance with the provisions of section 6 of the Amended Act.

Notification

LD/5750/74

The following notification received from the Government of India, Ministry of Finance, New Delhi, is hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 26th December, 1974.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

New Delhi, the 16th December, 1974
25th Agrahayana, 1896 (Saka)

Notification

Customs

G. S. R. No. — In exercise of the powers conferred by sub-section (3) of section 1 of the Conservation of Foreign Exchange and prevention of Smuggling Activities Act, 1974 (52 of 1974), the Central Government hereby appoints the 19th day of December, 1974 as the date on which the said Act shall come into force.

C. T. A. PILLAI

Joint Secretary to the Government of India.